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Special Elections and Presidential Primaries

Cory Savino, Fiscal Analyst, and Joe Carrasco, Jr., Fiscal Analyst

When an election is called by the State and occurs outside of the regular election schedule, the State is required to reimburse local and county clerks for all costs related to that election. The requirement applies to special elections for ballot questions proposing constitutional amendments and presidential primaries. This article provides an overview of the process and procedure for special election and presidential primary reimbursements and analyzes the costs from the May 5, 2015, special election.

Background

Section 487 of the Michigan Election Law (MCL 168.487) requires the State to reimburse counties, cities, and townships for the cost of conducting a special election to submit a proposed constitutional amendment to the voters. Section 624g of the Michigan Election Law (MCL 168.624g) requires the State to reimburse counties, cities, and townships for the cost of conducting presidential primaries. Under both sections, the State reimburses for the cost related only to the special election; thus, if a local unit were to add a local election to the special election, the local unit would be reimbursed only for the costs associated with the special election and not the additional costs of the local election.

The issue of special election costs occurs every four years for the presidential primary while special elections for ballot questions are rarer, since most ballot proposals are presented to the voters during general election schedules. Counties, cities, and townships have 90 days after a special election to submit a reimbursement request to the State, and the State has 90 days after receiving the request to verify it and provide reimbursement. While the Elections Bureau within the Department of State verifies and approves the reimbursement requests, the funding for those reimbursements is appropriated in the budget for the Department of Treasury. The Department disburses the funds because it already has an efficient process in place for issuing funds to local units of government.

The costs eligible for special election reimbursement are listed in Table 1. The list comes from the differentiation between the costs of an actual special election that is mandated by the State and the regular operational costs of a local unit of government. The items that are not eligible to be reimbursed include those that can be used for more than that election, as they are seen as capital improvement and fall under the clerk's general operations budget. The pay for regular employees during their regular shift also is not included, since they would be working regardless of the election. Finally, since voter registration is part of the standard duties of the clerk's office, costs related to voter registration also are not reimbursed, even if there is an increase in registrations leading up to a special election.

The major costs related to a special election or a presidential primary are for renting polling sites, producing ballots, and paying wages or per diem amounts to temporary election workers. In the past, the total cost of a special election or a presidential primary to the State has been approximately \$10.0 million. Since counties, cities, and townships have 90 days to submit the reimbursement request and the State has 90 days to review and issue the reimbursement, the true costs of the election are not known until well after it takes place. When costs exceed the amount that is allocated, the State still has the obligation to ensure that those payments are made, either

within existing appropriations in the Department of Treasury or with additional appropriations approved by the Legislature in a supplemental appropriation act.

Table 1

Special Election Reimbursable Costs	
Cities/Townships	Counties
<ul style="list-style-type: none"> • Rental charges for polling sites • Supplies and postage • Fees for janitorial services • Cost of publishing public notices • Travel and transportation expenses associated with the special election • Fees for equipment rentals • Wages or per diem payments made to precinct inspectors and temporary employees • Election overtime or extra compensation paid to regular employees or officials if it is standard practice • Any other miscellaneous expenses associated with the special election 	<ul style="list-style-type: none"> • Ballot production • Supplies, shipping, postage • Costs of publishing public notices • Travel and transportation expenses associated with the special election • Fees for equipment rentals • Wages or per diem payments to canvassers and temporary employees • Election overtime pay to regular employees or officials if it is standard practice • Any other miscellaneous expenses associated with the special election
Nonreimbursable Costs	
<ul style="list-style-type: none"> • If a local election is conducted in conjunction with the special election, any expenses that are attributable to the local election. • Compensation paid to regular employees and officials (except overtime pay due to the special election) • The cost of new equipment (capital outlay) • The cost of reusable supplies or equipment • Any cost associated with the registration of voters • Any cost associated with the establishment of a "permanent absentee voter" mail list 	

May 5, 2015, Special Election

Table 2 shows the reimbursement amounts that have been submitted and verified to date for the May 5, 2015, special election on Proposal 15-1 (which pertained to road funding). The table is divided into three columns: the first shows the reimbursement amount for counties, the second column shows the reimbursement amount for the cities and townships within each county, and the third column shows the total reimbursements verified. The total statewide amount that has been verified is \$10,134,795.44, with 27.7% going to the counties and 72.3% to cities and townships. There are still a number of reimbursement requests for cities and townships being processed and the Department of Treasury estimates another \$100,000 will be verified in addition to the total amount verified to date. This means that the Department needs an estimated \$250,000 in addition to the original \$10.0 million appropriated for FY 2014-15. The Department will be able to absorb the additional amount by using unspent funds in the Personal Property Tax Reform line item if a legislative transfer request (included in Request 2015-6) is approved. The use of these additional funds will ensure that all the local units of government across the State are reimbursed for their costs of the May 5, 2015, election without the need for additional appropriations to the Department.

Conclusion

Under the Michigan Election Law, the State is required to reimburse counties, cities, and townships for the costs of administering State special elections on constitutional amendments and presidential primaries. The Elections Bureau in the Department of State processes and approves reimbursement requests, while the Department of Treasury issues the funds. The May 5, 2015, State special election is estimated to cost \$250,000 more than the original \$10.0 million appropriation. The Department of Treasury will be able to cover the additional cost by using unspent funds from the Personal Property Tax Reform line item and will not need additional appropriations if a transfer request is approved. For the 2016 presidential primary and future State special elections, keeping track of the eventual reimbursement amount will ensure that the reimbursements can be covered by the amount appropriated.

Table 2

May 5, 2015 Special Election Reimbursements Verified to Date			
County	County	Local	Total (County & Local)
Alcona	\$8,546.47	\$16,004.05	\$24,550.52
Alger	6,104.69	10,203.22	16,307.91
Allegan	33,747.91	43,640.09	77,388.00
Alpena	14,340.59	19,904.22	34,244.81
Antrim	13,612.83	16,800.90	30,413.73
Arenac	10,987.09	12,339.43	23,326.52
Baraga	4,411.53	9,546.72	13,958.25
Barry	16,657.58	34,362.63	51,020.21
Bay	38,172.69	58,180.00	96,352.69
Benzie	16,452.42	12,346.93	28,799.35
Berrien	35,868.61	97,049.36	132,917.97
Branch	28,236.37	31,995.40	60,231.77
Calhoun	66,636.58	79,440.27	146,076.85
Cass	24,688.39	24,219.03	48,907.42
Charlevoix	17,651.08	17,647.32	35,298.40
Cheboygan	16,046.30	20,064.34	36,110.64
Chippewa	11,899.12	19,990.36	31,889.48
Clare	23,592.05	21,831.76	45,423.81
Clinton	43,052.70	37,051.39	80,104.09
Crawford	17,325.43	8,966.41	26,291.84
Delta	11,311.17	19,157.51	30,468.68
Dickinson	14,597.26	14,766.83	29,364.09
Eaton	60,931.59	86,807.49	147,739.08
Emmet	15,905.88	26,234.72	42,140.60
Genesee	74,020.18	272,228.09	346,248.27

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May 5, 2015 Special Election Reimbursements Verified to Date			
County	County	Local	Total (County & Local)
Gladwin	18,288.07	11,275.57	29,563.64
Gogebic	9,172.58	8,337.34	17,509.92
Grand Traverse	32,139.43	75,690.60	107,830.03
Gratiot	28,341.20	17,550.13	45,891.33
Hillsdale	26,919.08	20,533.41	47,452.49
Houghton	13,079.53	37,369.46	50,448.99
Huron	43,573.48	28,128.39	71,701.87
Ingham	75,222.67	224,163.70	299,386.37
Ionia	34,937.31	29,833.31	64,770.62
Iosco	9,432.31	19,883.41	29,315.72
Iron	7,524.74	16,293.97	23,818.71
Isabella	30,123.27	22,251.41	52,374.68
Jackson	38,713.35	78,562.29	117,275.64
Kalamazoo	96,692.98	137,046.13	233,739.11
Kalkaska	11,428.68	24,079.61	35,508.29
Kent	95,196.11	305,950.01	401,146.12
Keweenaw	2,329.61	10,808.48	13,138.09
Lake	9,835.80	24,522.60	34,358.40
Lapeer	69,031.95	52,949.53	121,981.48
Leelanau	15,298.57	17,610.18	32,908.75
Lenawee	27,839.08	53,166.64	81,005.72
Livingston	63,632.86	175,626.17	239,259.03
Luce	2,832.00	2,510.74	5,342.74
Mackinac	6,856.80	12,876.87	19,733.67
Macomb	138,959.64	671,360.30	810,319.94
Manistee	17,934.77	20,027.43	37,962.20
Marquette	20,796.15	52,539.26	73,335.41
Mason	18,661.22	16,820.10	35,481.32
Mecosta	23,572.19	27,926.14	51,498.33
Menominee	20,164.57	13,185.34	33,349.91
Midland	55,158.44	43,536.93	98,695.37
Missaukee	16,813.12	16,060.53	32,873.65
Monroe	38,071.92	99,412.95	137,484.87
Montcalm	28,387.02	29,593.68	57,980.70
Montmorency	7,459.74	9,149.65	16,609.39
Muskegon	41,543.60	68,958.32	110,501.92

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May 5, 2015 Special Election Reimbursements Verified to Date			
County	County	Local	Total (County & Local)
Newaygo	43,767.98	24,965.23	68,733.21
Oakland	173,406.68	990,861.95	1,164,268.63
Oceana	18,932.47	21,842.56	40,775.03
Ogemaw	27,341.64	21,920.11	49,261.75
Ontonagon	7,976.95	9,643.82	17,620.77
Osceola	19,607.95	27,728.86	47,336.81
Oscoda	5,768.16	5,663.46	11,431.62
Otsego	9,926.56	11,558.28	21,484.84
Ottawa	76,260.96	177,876.21	254,137.17
Presque Isle	12,235.00	13,575.25	25,810.25
Roscommon	15,338.63	13,730.52	29,069.15
Saginaw	46,070.77	111,367.55	157,438.32
St. Clair	62,193.08	77,653.23	139,846.31
St. Joseph	12,720.28	24,726.94	37,447.22
Sanilac	37,518.39	35,144.21	72,662.60
Schoolcraft	4,944.73	9,187.28	14,132.01
Shiawassee	26,203.46	35,443.07	61,646.53
Tuscola	26,542.14	31,206.89	57,749.03
Van Buren	32,588.29	36,409.83	68,998.12
Washtenaw	56,528.68	257,602.21	314,130.89
Wayne	255,736.01	1,887,270.77	2,143,006.78
Wexford	15,477.73	15,201.27	30,679.00
Total	\$2,807,846.89	\$7,326,948.55	\$10,134,795.44
	27.71%	72.29%	100%
Avg. (Per Unit)	\$33,829.48	\$4,820.36	

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Upcoming Foundation Allowance Limitations: A Return of "20j" Kathryn Summers, Associate Director

From fiscal year (FY) 1999-2000 through FY 2008-09, the State School Aid Act contained an appropriation section referred to as "20j". The appropriation provided payments to districts whose foundation allowance growth was capped at no more than inflation, to enable them to receive the full dollar amount of the increase in the basic foundation grant that was given to all other districts. In FY 2009-10, Governor Jennifer Granholm vetoed the section, and although attempts were made in subsequent years to restore the funding, nothing materialized. Looking ahead to FY 2016-17, it is possible that a return to a "20j" scenario will occur. This article will examine in more detail the issue leading to the creation of the previous "20j" appropriation, review the circumstances likely to occur for FY 2016-17, and offer legislative options to address the issue, if desired, as well as discuss an existing appropriation of "supplemental" funding.

The Issue

Beginning with the implementation of Proposal A (the school financing reform measure adopted by the voters in 1994), Section 1211(3) of the Revised School Code (MCL 380.1211) has prohibited "hold-harmless" districts from collecting more than an inflationary increase in their per-pupil State and local revenue from one year to the next year. (Generally, a "hold-harmless" district is one whose foundation allowance in FY 1994-95 exceeded \$6,500 per pupil and the district therefore was allowed to levy additional "hold-harmless" millage on certain classes of property, although Public Act 216 of 2010 removed this designation from six school districts.¹ For FY 2014-15, there are 44 hold-harmless districts with statutory foundation allowances in excess of the hold-harmless threshold of \$8,099 (which is what the \$6,500 threshold has grown to since FY 1994-95).

The restriction in the School Code, combined with the same restriction in subsection 3(c) of the Section 20 of the School Aid Act (MCL 388.1620), means that if, in any given year, the dollar increase in the basic foundation allowance exceeds the inflation rate *when it is applied to a hold-harmless district's previous-year foundation allowance* (not when applied to the basic foundation allowance itself), the district cannot by law levy the number of mills necessary to receive the full dollar increase given in the basic foundation allowance. Instead, the statutory increase that may be given to a hold-harmless district is equal to the rate of inflation multiplied by *that district's* foundation allowance.

The First "Perfect Storm"

Other than FY 2016-17 as estimated, there were two years when the State of Michigan was experiencing very low inflation and when very large per-pupil foundation allowance dollar increases were provided to schools: FY 1999-2000 and FY 2000-01.

The following example illustrates the phenomenon that occurred during those two years. In FY 2000-01, the dollar increase appropriated for the basic foundation allowance was \$300. This meant that all school districts with foundation allowances below the State Maximum Foundation Allowance (which was \$7,500 that year) received the full \$300 increase in their funding because, at that time,

¹ [Senate Fiscal Agency summary of House Bill 6212 reflects P.A. 216 of 2010.](#)

the formula was not the current "2x" formula², but instead was one that gave the same per-pupil increase to every school district, regardless of the district's foundation allowance level. Inflation that year was only 2.8%.

As discussed above, according to Section 1211(3) of the Revised School Code, a hold-harmless district is able to levy mills only to reach a foundation allowance increase that is the lesser of inflation or the dollar increase in the basic foundation allowance. For example, a hypothetical hold-harmless district with a foundation allowance of \$10,000 in FY 2000-01 would have been capped at an increase of \$280 per pupil (which is equal to \$10,000 multiplied by inflation, or 2.8%). However, the increase in the basic foundation allowance, given to all districts that were not hold-harmless, was \$300. Without a change to the School Aid Act or Revised School Code, this hypothetical district would have received \$20 per pupil less than the increase given to all nonhold-harmless districts.

The Resolution at that Time - Section 20j

Public Act 119 of 1999 added Section 20j to the State School Aid Act, to take effect in FY 1999-2000. This section was enacted to enable hold-harmless districts to receive the full dollar amount of the increase in the basic foundation grant given to all other districts. In the above example, Section 20j allowed the State to make a payment to the district for the \$20 per pupil that the district would have been prohibited from raising locally due to Section 1211(3) of the Revised School Code.

There were 40 districts that received State funding calculated under Section 20j for FY 2008-09, totaling \$51.8 million. Again, this funding represented the difference between what the affected districts would have been capped at in any given year (inflation) and what the per-pupil basic foundation allowance increase was in that year. This was a cumulative calculation of those differences, whenever they occurred.

In the years since FY 2000-01, the per-pupil increases in the basic foundation allowance have been lower than inflation compared with the foundation allowances of the hold-harmless districts, thereby not triggering the cap in the School Code. The funding for Section 20j, after its inception and before its veto, was fairly constant, changing only based on the number of pupils counted by the affected districts, and whether an eligible district fell "out of formula" (when its local funding exceeded its 20j payment). The effect of the Governor's veto of this funding was to reduce the affected districts' funding to the inflationary increases prescribed for FYs 1999-2000 and 2000-01, as capped by the School Code.

The Second Perfect Storm

Looking ahead to FY 2016-17, the consensus estimate for inflation (defined as the United States calendar year 2015 consumer price index) is 0.2%. If a dollar increase is provided in the basic foundation allowance during the budget process, hold-harmless districts will again be capped at the rate of inflation. For example, in Bloomfield Hills, where the FY 2015-16 foundation allowance is \$12,004, a 0.2% cap would mean a statutory increase of \$24. For Novi Schools, whose foundation allowance for FY 2015-16 is \$8,479, a 0.2% cap would mean a maximum increase of \$17. [Appendix A](#) lists the affected districts and their statutory caps.

² The "2x" formula was reinstated in FY 2007-08 to generally provide larger dollar increases to districts at the lower end of per-pupil funding than to those districts with higher foundation allowances.

Possible Resolutions This Time Around, If Desired

One way to get around this cap, if so desired, would be to create a new "categorical" (like the old 20j) and set aside money for the affected districts. (A categorical is a funding allocation for a specific purpose.) However, the funding in the new categorical would have to be separate from the foundation allowance because of the School Code cap. This, then, would mean that the section would stand alone and be subject to veto, as are all appropriations, but the perception could be that this would become a "supplemental" payment to a small group of districts, and therefore potentially more vulnerable to future reductions or elimination, which is what occurred with the previous 20j.

Another legislative option would be to remove the cap in the Revised School Code (and the corresponding cap in the School Aid Act). The cap was instituted at the time of Proposal A's implementation, to ensure that districts at the higher end of per-pupil funding received foundation allowance increases that did not exceed inflation. The thinking at the time was that the cap would continue to shrink the foundation allowance gap, but by capping the growth at the top instead of solely by bringing the bottom districts up.

The removal of this cap likely would require a three-quarters vote in each chamber of the Legislature and the Governor's signature. The reason a three-quarters vote would be needed is found in Article IX, Section 3 of the Michigan Constitution, which requires such a threshold for legislation increasing the statutory limit on property taxes for school operating purposes. Even if a foundation allowance increase exceeding inflation were entirely State-funded, and no increase in local property taxes would occur, the removal of the statutory millage cap in Section 1211 of the School Code likely would need the three-quarters vote, because the millage cap itself, regardless of actual mills levied, would be eliminated. This would create the potential for increased property taxes for school operating purposes at some point in the future, in the event State support of the foundation allowance were reduced. How the existing Legislature regards the policy of capping hold-harmless districts to inflationary increases likely will determine whether legislation to remove the cap will be pursued.

Side Issue of Section 20f

Beginning in FY 2013-14, and continuing through the enacted budget for FY 2015-16, a categorical similar in process to the old 20j has been appropriated in the School Aid Act, namely Section 20f, but for a different purpose. This categorical has been used to provide dollar increases to certain districts to ensure either a net positive gain when comparing changes in the foundation allowance to changes in certain categorical funding, or at least no net loss.

Specifically, in FY 2013-14, \$6.0 million was appropriated to ensure that every district received at least a \$5-per-pupil net increase in operational funding, when summing the positive changes in the foundation allowance and applicable equity payments, with the negative reduction districts saw under Section 147a, which provided financial relief for retirement costs. The concern before the addition of this new categorical was that while an increase was provided in the foundation allowance, the reduction under Section 147a for some districts more than offset the foundation allowance increase. Therefore, the Legislature and Governor enacted a section to ensure that all districts received at least a net \$5 increase in operational funding. The districts eligible for 20f adjustments are much the same as those that qualified for 20j funding.

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Districts that received the adjustment for the first time in FY 2013-14 continued to receive the same per-pupil dollar payment in FY 2014-15, because if it were eliminated in FY 2014-15, then prior-year operational funding levels would have been reduced, and this was not desired by the Legislature or Governor. For FY 2015-16, the appropriation in the section will triple, from \$6.0 million to \$18.0 million. The first \$6.0 million is to continue the original net \$5-per-pupil operational increase from FY 2013-14, and then provide another net \$25 guarantee. The net \$25 guarantee is calculated by summing the positive changes in a district's foundation allowance for FY 2015-16 with any per-pupil At Risk gain, with the negative reduction districts will see from the elimination of the Best Practices and Pupil Performance categoricals (which were eliminated effective for the FY 2015-16 budget).

Section 20f is a separate appropriation from the foundation allowance, much like the old 20j that was vetoed in FY 2009-10. Because it is separate, it may be vulnerable to the same pressures that the previous section experienced. The per-pupil adjustments funded under Section 20f could be rolled into the affected districts' base foundation allowances only if or when the total dollar increase of the adjustment did not exceed inflation, due to the cap in the Revised School Code, and only if or when desired by policymakers.

Conclusion

While the FY 2015-16 budget has just taken effect, looking ahead, FY 2016-17 will pose challenges to foundation allowance growth for "hold-harmless" districts. The Revised School Code limits the growth in those districts' foundation allowances to no more than the rate of inflation, which is estimated to be 0.2% for the affected year. Legislators have options to provide additional funding to such districts, if desired, but the additional funding would need to remain separate from the statutory foundation allowance, or the statutory cap could be removed with legislative action and the Governor's signature, but may require a three-quarters vote. It is hoped that this article provides advance notice of this issue likely to occur in School Aid.

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Appendix A

County	Code	District Name	FY 2015-16 Foundation Allowance	Estimated FY 2016-17 Statutory Cap
Alger County	02020	Burt Township School District	\$10,067	\$20
Allegan County	03080	Saugatuck Public Schools	\$8,200	\$16
Berrien County	11200	New Buffalo Area Schools	\$10,004	\$20
Berrien County	11340	Bridgman Public Schools	\$8,225	\$16
Charlevoix County	15010	Beaver Island Community School	\$10,273	\$20
Chippewa County	17050	Detour Area Schools	\$8,960	\$18
Chippewa County	17160	Whitefish Township Schools	\$10,941	\$22
Eaton County	23490	Oneida Township S/D #3	\$10,683	\$21
Emmet County	24020	Harbor Springs School District	\$8,357	\$17
Huron County	32130	Port Hope Community Schools	\$8,875	\$18
Huron County	32260	Colfax Township S/D #1F	\$8,734	\$17
Eaton County	33215	Waverly Community Schools	\$8,553	\$17
Keweenaw County	42030	Grant Township S/D #2	\$12,406	\$25
Leelanau County	45040	Northport Public School District	\$8,968	\$18
Mackinac County	49020	Bois Blanc Pines School District	\$15,556	\$31
Mackinac County	49110	Mackinac Island Public Schools	\$11,277	\$22
Macomb County	50010	Center Line Public Schools	\$9,503	\$19
Macomb County	50200	South Lake Schools	\$8,874	\$18
Macomb County	50230	Warren Consolidated Schools	\$9,006	\$18
Macomb County	50240	Warren Woods Public Schools	\$8,638	\$17
Marquette County	52110	Republic-Michigamme Schools	\$8,469	\$17
Marquette County	52160	Wells Township School District	\$8,841	\$18
Midland County	56010	Midland Public Schools	\$8,291	\$16
Monroe County	58080	Jefferson Schools (Monroe)	\$11,180	\$22
Oakland County	63010	Birmingham Public Schools	\$11,924	\$24
Oakland County	63040	Royal Oak Schools	\$8,758	\$17
Oakland County	63060	Southfield Public School District	\$10,971	\$22
Oakland County	63080	Bloomfield Hills Schools	\$12,004	\$24
Oakland County	63100	Novi Community School District	\$8,479	\$17
Oakland County	63150	Troy School District	\$8,955	\$18
Oakland County	63160	West Bloomfield School District	\$8,796	\$17
Oakland County	63200	Farmington Public School District	\$10,045	\$20
Oakland County	63280	Lamphere Public Schools	\$10,429	\$21
Oakland County	63290	Walled Lake Consolidated Schools	\$8,315	\$16
Van Buren County	80040	Covert Public Schools	\$9,334	\$19
Van Buren County	80240	Bangor Township S/D #8	\$8,179	\$16
Washtenaw County	81010	Ann Arbor Public Schools	\$9,170	\$18
Wayne County	82030	Dearborn City School District	\$8,482	\$17
Wayne County	82045	Melvindale-North Allen Park Schools	\$8,675	\$17
Wayne County	82055	Grosse Pointe Public Schools	\$9,864	\$20
Wayne County	82120	River Rouge, School District of The City of	\$8,505	\$17
Wayne County	82130	Romulus Community Schools	\$8,542	\$17
Wayne County	82155	Trenton Public Schools	\$8,426	\$17
Wayne County	82300	Grosse Ile Township Schools	\$8,474	\$17

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Michigan Public Community Colleges: Ten Years of the Performance Indicators Task Force Funding Model

By Bill Bowerman, Associate Director

Introduction

Section 230a of the State School Aid Act (included in [Appendix A](#)) creates a task force to "review, evaluate, discuss, and make recommendations" regarding performance indicators that were developed in 2006 to distribute State aid to Michigan public community colleges. The task force is charged with reviewing whether the current metrics used are the most appropriate and reliable performance indicators and determining the most efficient methodology for aligning State funding to those indicators. A report containing findings and recommendations of the Task Force is due by January 15, 2016. The following provides an overview of the current performance indicators and how they have affected community college funding over the last 10 years.

Background

In 2005, Section 242 of Public Act 154 of 2005 (included in [Appendix A](#)) created a task force, commonly referred to as the Performance Indicators Task Force, to make recommendations regarding the allocation of State aid to community colleges. The Task Force was charged with determining the most appropriate and reliable performance indicators and the most efficient methodology for connecting State appropriations to those indicators. Section 242 also stated the legislative intent that State funding to community colleges would be based partially or wholly on performance indicators in future budget years. The Task Force consisted of four legislators who served on the Senate and House Appropriation Subcommittees on Community Colleges and four community college presidents.

The Task Force was formed in October 2005 and met six times over a five-month period. It directly reviewed 17 metrics. The Task Force recommendation agreed upon a formula model with three categorical indicators and several metrics to be applied in each category to verify performance.¹ The Task Force also recommended a funding level for State appropriations to implement the model. The model proposed a \$20.0 million increase to community college operations, with half of the increase being allocated for the purpose of sustaining the system, i.e., an across-the-board increase to base funding. The rationale was to begin restoring funds reduced from college operations during periods of State revenue shortfalls. The other half of the funding would be allocated based on three performance indicators:

1. Enrollment and Business Efficiency. Metrics recommended for this indicator included a two-year average of student contact hours and the proportion of general operating funds allocated for administrative costs.

¹ The entire Performance Indicators Task Force proposal and recommendations can be obtained through the following link:

http://www.senate.michigan.gov/sfa/Departments/DataCharts/DCccl_PerformanceIndicators.pdf

2. Completion. Metrics recommended included successful course completions, subtotals of course completions in high-cost areas, and a two-year average of the number of graduates.
3. Local Strategic Value. Metrics recommended included the number of continuing education students, the number of cooperative agreements with baccalaureate institutions, the number of strategic partnerships with businesses, and college-sponsored arts and culture.

A version of the Performance Indicators Task Force Model was first used in fiscal year (FY) 2006-07. The formula progressed over time to include an administrative cost metric, as recommended by the Task Force, and in FY 2012-13 a specific list of measurable data items was added to the local strategic value component.

It is relevant to note that the current performance funding model does not take into account the relative ability of colleges to generate property tax revenue due to disparities in tax bases, or their relative ability to generate tuition revenue due to the number of students within the college district.

Current Formula

In 2015, Section 230 of Public Act 85 of 2015 (included in [Appendix A](#)) delineates the criteria for the distribution of funding increases to community colleges. Subsection (1) of Section 230 provides for the following allocations:

- a) Proportionate to Previous Fiscal Year Base Appropriations, 50.0%. The Performance Indicators Task Force funding model included as a priority the restoration of funding subject to budget cuts since FY 2001-02. Therefore, the formula model provided that 50.0% of annual funding increases should be allocated in an "across-the-board" manner. There have been no adjustments to this part of the formula since its inception.
- b) Contact Hour Equated Students, 10.0%. This category originally received 17.5% of the formula allocations. Allocations are based on the number of student contact hours as measured by a two-year average as reported in the Activities Classification Structure (ACS)². In FY 2012-13, the allocation was reduced from 17.5% to 10.0%, with the difference being allocated to the administrative costs portion of the formula.
- c) Administrative Costs, 7.5%. This allocation is based on a two-year average of administrative costs represented as a percentage of general fund operating costs, as reported in the ACS. The two-year average administrative cost percentage is subtracted from a ceiling percentage each year (24.0% in FY 2015-16). Colleges with larger differences from the ceiling amount receive a proportionately larger amount of funding relative to other community colleges, thus rewarding colleges with lower

² The ACS was created in response to Section 8 of Public Act 419 of 1978 for the purpose of documenting financial needs of community colleges. The ACS defines Contact Hour Equated Students as the calculated equivalent of a student having completed one full year of instruction (31 credit hours multiplied by 16 contact hours = 496 contact hours of instruction).

percentages of administrative costs. Beginning in FY 2012-13, the administrative cost metric has been funded through the reduction in the Contact Hour Equated Students metric from 17.5% to 10.0%.

- d) Weighted Degree/Certification Completion Formula, 17.5%. Data for this metric are obtained through the Integrated Postsecondary Education Data System (IPEDS).³ Data are based on a two-year average. The following weights are applied to completions:

	<u>Weight</u>
General and Business	1
Natural Science	2
Engineering/Technology	4
Health	4

- e) Local Strategic Value, 15.0%. Colleges are required to meet four out of five best practices listed in each of the following categories:

Category A: Economic Development and Business or Industry Partnerships.
Category B: Educational Partnerships.
Category C: Community Services.

([Appendix A](#) contains a complete listing of best practices listed under 2015's Section 230 (3).)

This methodology for meeting the local strategic value requirement was first implemented in FY 2012-13. Each college is required to certify, through a board of trustees resolution, how the college meets best practice measures within each category. If a college qualifies for funding based on this metric, funds are distributed proportionately based on the prior-year appropriation (i.e., across-the-board).

[Appendix B](#) provides details of FY 2015-16 formula allocations.

Impact

Budget reductions and continuation appropriations have hindered the implementation of the Performance Indicators Task Force funding model. The Task Force goal of restoring State appropriations for community college operations to FY 2001-02 levels and providing inflationary increases has not been met. The FY 2015-16 appropriation for community college operations is \$311.5 million, which is \$7.7 million below the \$319.2 appropriation in FY 2001-02 in noninflation-adjusted dollars. However, overall funding for community colleges has increased during that time period, mainly due to Michigan Public Employees Retirement System (MPERS) reimbursements that began in FY 2012-13. The FY 2015-16 MPERS reimbursement totals \$71.2 million. The total State appropriation for community colleges from

³ IPEDS is the postsecondary education data collection program for the National Center for Education Statistics, a part of the Institute for Education Sciences within the United States Department of Education.

FY 2001-02 to FY 2015-16 increased by \$67.6 million (21.1%), from \$320.2 million to \$387.8 million. During the same time period, the United States Consumer Price Index is projected to have increased by 34.5%.⁴

In order for performance-based State funding to influence outcomes, a greater amount of funding would be necessary for distribution through the model. It is also important to note that the current performance funding model allocates 65.0% of the distribution across-the-board (i.e., incremental adjustments based on existing funding). Appendix C compares FY 2005-06 State appropriations for college operations (the year before the Performance Indicators Task Force funding model was implemented) with FY 2015-16 appropriations. As shown, the change in each college's share as a percentage of the total State appropriation has ranged from -0.130% to 0.164%.

State funding as a share of total community college revenue also has been decreasing since FY 2001-02. A comparison of FY 2001-02 and FY 2013-14 is shown in Table 1.

Table 1

Community College Operating Fund Revenue Sources				
	FY 2001-02	Percent of Total	FY 2013-14	Percent of Total
State Aid	\$316,410,944	30.3%	\$298,244,000	20.0%
Tuition and Fees	280,043,137	26.8%	642,706,143	43.2%
Property Taxes.....	416,867,238	39.9%	521,969,615	35.1%
Other	31,890,847	3.1%	24,804,198	1.7%
Total	\$1,045,212,166	100.0%	\$1,487,723,956	100.0%

Source: ACS

In FY 2001-02, the ACS reported that State aid accounted for 30.3% of college general fund operating revenue. By 2013-14, State aid as a percentage of college operating revenue had decreased to 20.0%. During the same time, tuition increased from 26.8% of college general fund operating revenue to 43.2%. State aid declining as a percentage share of total college operating revenue also limits the capability of performance funding to affect outcomes.

Conclusion

The 2006 Performance Indicators Task Force recommendations were focused on system sustainability, long-term stability in funding, and annual inflationary increases. The goal of the Task Force was to accomplish the implementation of performance metrics without redistributing existing funds. Section 230a of the State School Aid Act provides for a review of the current performance funding model to determine whether the metrics used are the most appropriate and reliable performance indicators available and to determine the most efficient methodology for connecting State funding to those indicators. Due to the fact that a relatively small amount of funding has been distributed based on metrics, the efficacy of the current model will be difficult to evaluate.

⁴ Based on the May 2015 Consensus Revenue Estimate.

Appendix A

Section 230a of Public Act 85 of 2015

Sec. 230a. (1) A task force shall be formed by October 15, 2015 to review, evaluate, discuss, and make recommendations regarding performance indicators established under the authority of section 242 of 2005 PA 154. The task force shall review whether the current metrics used are the most appropriate and reliable performance indicators available and determine the most efficient methodology for connecting state funding to those indicators.

(2) The task force described in subsection (1) shall consist of the following members:

(a) Two members of the Michigan house of representatives. One member shall be designated by the speaker of the house, and 1 member shall be designated by the house minority leader.

(b) Two members of the Michigan senate. One member shall be designated by the senate majority leader, and 1 member shall be designated by the senate minority leader.

(c) One representative from the department of technology, management, and budget, designated by the state budget director.

(d) Four representatives of Michigan public community colleges. The Michigan Community College Association shall designate 1 representative from each of the 4 groups described in the activities classification structure data book published by the workforce development agency.

(3) The task force described in subsection (1) shall submit a report containing its findings and recommendations to the house and senate appropriations subcommittees on community colleges, the house and senate fiscal agencies, and the state budget director by January 15, 2016.

Section 242 of Public Act 154 of 2005

Sec. 242. (1) A task force shall be formed by October 15, 2005 to review, evaluate, discuss, and make recommendations regarding performance indicators to be utilized in future budget years to guide decisions regarding state funding to community colleges. The task force shall consist of the following members:

(a) Two members of the Michigan house of representatives. One member shall be designated by the speaker of the house, and 1 member shall be designated by the house minority leader.

(b) Two members of the Michigan senate. One member shall be designated by the senate majority leader, and 1 member shall be designated by the senate minority leader.

(c) Four representatives of Michigan public community colleges. The Michigan community colleges association shall designate 1 representative from each of the 4 groups described in the activities classification structure data book published by the department of labor and economic growth under section 501.

(2) The task force described in subsection (1) shall consider at least all of the following performance indicators for community colleges in performing its duties under subsection (1):

(a) Total number of degrees and certificates awarded and subtotals of degrees and certificates awarded in high-cost areas.

(b) Total number of student contact hours provided and subtotals of student contact hours provided in high-cost areas.

(c) Expenditures for administration as a percentage of total operating fund expenditures.

(d) Licensure, certification, and registry exam pass rates and the number of individuals obtaining licensure or certification or passing a registry exam.

(e) Degree and certificate completion rates.

(f) Student transfer rates.

(g) Performance at transfer institutions.

(h) Student goal attainment.

- (i) Placement and wage rates.
- (j) Number of dual enrollment participants.
- (k) Number of individuals participating in employer-sponsored training.
- (3) The task force described in subsection (1) shall submit a report containing its findings and recommendations on the following topics to the house and senate appropriations subcommittees on community colleges, the house and senate fiscal agencies, and the state budget director by February 1, 2006:
 - (a) The most appropriate and reliable performance indicators to be utilized to guide decisions on state funding to community colleges.
 - (b) The most efficient methodology for connecting state funding to those indicators.
- (4) The department of labor and economic growth shall work with the task force to establish mechanisms to collect and verify data for any indicators that the task force recommends but for which reliable data are not currently available.
- (5) It is the intent of the legislature that state funding to community colleges will be based partially or wholly on performance indicators in future budget years.

Section 230 of Public Act 85 of 2015

Sec. 230. (1) Money included in the appropriations for community college operations under section 201(2) in fiscal year 2015-2016 for performance funding is distributed based on the following formula:

- (a) Allocated proportionate to fiscal year 2014-2015 base appropriations, 50%.
 - (b) Based on contact hour equated students, 10%.
 - (c) Based on administrative costs, 7.5%.
 - (d) Based on a weighted degree formula as provided for in the 2006 recommendations of the performance indicators task force, 17.5%.
 - (e) Based on the local strategic value component, as developed in cooperation with the Michigan Community College Association and described in subsection (2), 15%.
- (2) Money included in the appropriations for community college operations under section 201(2) for local strategic value shall be allocated to each community college that certifies to the state budget director, through a board of trustees resolution on or before October 15, 2015, that the college has met 4 out of 5 best practices listed in each category described in subsection (3). The resolution shall provide specifics as to how the community college meets each best practice measure within each category. One-third of funding available under the strategic value component shall be allocated to each category described in subsection (3). Amounts distributed under local strategic value shall be on a proportionate basis to each college's fiscal year 2014-2015 operations funding. Payments to community colleges that qualify for local strategic value funding shall be distributed with the November installment payment described in section 206.
- (3) For purposes of subsection (2), the following categories of best practices reflect functional activities of community colleges that have strategic value to the local communities and regional economies:
- (a) For Category A, economic development and business or industry partnerships, the following:
 - (i) The community college has active partnerships with local employers including hospitals and health care providers.
 - (ii) The community college provides customized on-site training for area companies, employees, or both.
 - (iii) The community college supports entrepreneurship through a small business assistance center or other training or consulting activities targeted toward small businesses.

- (iv) The community college supports technological advancement through industry partnerships, incubation activities, or operation of a Michigan technical education center or other advanced technology center.
- (v) The community college has active partnerships with local or regional workforce and economic development agencies.
- (b) For Category B, educational partnerships, the following:
 - (i) The community college has active partnerships with regional high schools, intermediate school districts, and career-tech centers to provide instruction through dual enrollment, concurrent enrollment, direct credit, middle college, or academy programs.
 - (ii) The community college hosts, sponsors, or participates in enrichment programs for area K-12 students, such as college days, summer or after-school programming, or science Olympiad.
 - (iii) The community college provides, supports, or participates in programming to promote successful transitions to college for traditional age students, including grant programs such as talent search, upward bound, or other activities to promote college readiness in area high schools and community centers.
 - (iv) The community college provides, supports, or participates in programming to promote successful transitions to college for new or reentering adult students, such as adult basic education, general education development certificate preparation and testing, or recruiting, advising, or orientation activities specific to adults.
 - (v) The community college has active partnerships with regional 4-year colleges and universities to promote successful transfer, such as articulation, 2+2, or reverse transfer agreements or operation of a university center.
- (c) For Category C, community services, the following:
 - (i) The community college provides continuing education programming for leisure, wellness, personal enrichment, or professional development.
 - (ii) The community college operates or sponsors opportunities for community members to engage in activities that promote leisure, wellness, cultural or personal enrichment such as community sports teams, theater or musical ensembles, or artist guilds.
 - (iii) The community college operates public facilities to promote cultural, educational, or personal enrichment for community members, such as libraries, computer labs, performing arts centers, museums, art galleries, or television or radio stations.
 - (iv) The community college operates public facilities to promote leisure or wellness activities for community members, including gymnasiums, athletic fields, tennis courts, fitness centers, hiking or biking trails, or natural areas.
 - (v) The community college promotes, sponsors, or hosts community service activities for students, staff, or community members.
- (4) Payments for performance funding under section 201(2) shall be made to a community college only if that community college actively participates in the Michigan transfer network sponsored by the Michigan Association of Collegiate Registrars and Admissions Officers and submits timely updates, including updated course equivalencies at least every 6 months, to the Michigan transfer network. The state budget director shall determine if a community college has not satisfied this requirement. The state budget director may withhold payments for performance funding until a community college is in compliance with this section.

FY 2015-16 Community College Appropriations

		FY 2015-16 Adjustments								
	FY 2014-15	50.0% Proportionate	17.5% Weighted	10.0% Student	7.5% Admin.	15.0% Local	Total	Non-Formula	FY 2015-16	Percent
College	Year-To-Date	To Base	Degree Formula	Contact Hours	Costs	Strategic Value	Distribution	Adjustments*	Initial Appropriation	Change
Alpena	\$5,390,700	\$37,735	\$10,402	\$3,454	\$10,830	\$11,321	\$73,700		\$5,464,400	1.4%
Bay de Noc	5,419,500	37,937	11,024	4,477	5,865	11,381	70,700		5,490,200	1.3%
Delta	14,498,900	101,493	38,684	19,550	14,879	30,448	205,100		14,704,000	1.4%
Glen Oaks	2,516,100	17,613	8,807	2,404	917	5,284	35,000		2,551,100	1.4%
Gogebic	4,451,400	31,160	6,810	2,456	8,709	9,348	58,500		4,509,900	1.3%
Grand Rapids	17,947,500	125,633	31,482	30,047	14,905	37,690	239,800		18,187,300	1.3%
Henry Ford	21,623,800	151,367	33,714	28,941	10,023	45,410	269,500		21,893,300	1.2%
Jackson	12,087,300	84,612	26,364	10,885	10,763	25,383	158,000		12,245,300	1.3%
Kalamazoo Valley	12,503,100	87,522	37,094	19,277	16,131	26,257	186,300		12,689,400	1.5%
Kellogg	9,813,500	68,695	20,679	11,296	15,369	20,608	136,600		9,950,100	1.4%
Kirtland	3,167,700	22,174	10,960	3,442	10,591	6,652	53,800		3,221,500	1.7%
Lake Michigan	5,342,900	37,400	9,632	7,802	8,794	11,220	74,800		5,417,700	1.4%
Lansing	30,877,600	216,144	77,783	33,686	18,144	64,843	410,600		31,288,200	1.3%
Macomb	32,816,600	229,717	60,465	47,070	16,683	68,915	422,900		33,239,500	1.3%
Mid Michigan	4,682,000	32,774	15,893	7,758	9,420	9,832	75,700		4,757,700	1.6%
Monroe	4,492,900	31,450	10,319	6,832	14,709	9,435	72,700		4,565,600	1.6%
Montcalm	3,226,700	22,587	9,328	3,258	11,925	6,776	53,900		3,280,600	1.7%
Mott	15,686,100	109,803	37,541	20,632	14,696	32,941	215,600		15,901,700	1.4%
Muskegon	8,901,000	62,307	13,781	9,129	15,768	18,692	119,700		9,020,700	1.3%
North Central	3,172,400	22,207	5,998	4,429	13,138	6,662	52,400		3,224,800	1.7%
Northwestern	9,078,800	63,552	15,963	9,707	13,385	19,066	121,700		9,200,500	1.3%
Oakland	21,123,300	147,864	53,434	49,697	10,744	44,359	306,100		21,429,400	1.4%
St. Clair	7,061,600	49,431	13,362	8,154	10,630	14,829	96,400		7,158,000	1.4%
Schoolcraft	12,513,700	87,596	41,999	24,980	11,844	26,279	192,700		12,706,400	1.5%
Southwestern	6,576,400	46,035	10,679	5,506	5,210	13,811	81,200		6,657,600	1.2%
Washtenaw	13,077,300	91,542	65,754	24,612	14,435	27,462	223,800		13,301,100	1.7%
Wayne County	16,727,600	117,094	70,277	27,962	11,742	35,128	262,200		16,989,800	1.6%
West Shore	2,414,900	16,904	4,394	2,630	2,303	5,071	31,300		2,446,200	1.3%
Subtotal Operations:	\$307,191,300	\$2,150,348	\$752,623	\$430,073	\$322,552	\$645,103	\$4,300,700	\$0	\$311,492,000	1.4%
Independent Part-Time Student Grants	\$0							\$0	0	0.0%
MPERS Retiree Health Care	1,733,600							0	1,733,600	0.0%
MPERS Reform Costs	52,300,000							17,200,000	69,500,000	32.9%
Renaissance Zone Reimbursements	3,500,000							1,600,000	5,100,000	45.7%
Total Appropriations:	\$364,724,900	\$2,150,348	\$752,623	\$430,073	\$322,552	\$645,103	\$4,300,700	\$18,800,000	\$387,825,600	6.3%
State School Aid Fund	364,724,900	2,150,348	752,623	430,073	322,552	645,103	4,300,700	(112,310,800)	\$256,714,800	-29.6%
GF/GP	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$131,110,800	\$131,110,800	---

* Non-Formula Adjustments include cost increases for MPERS Reform, Renaissance Zone Reimbursements, and funding adjustments between the State General Fund and the School Aid Fund.
The FY 2014-15 Year-To-Date column includes the funding shift contained in Public Act 5 of 2015, which shifted \$167.1 million from General Fund/General Purpose revenue to the School Aid Fund, resulting in the entire FY 2014-15 Community College budget being funded from the School Aid Fund.

State Notes
TOPICS OF LEGISLATIVE INTEREST
 Fall 2015



Appendix C

State Appropriations for Community Colleges Operations					
	FY 2005-06	Percent Share Of Total	FY 2015-16	Percent Share Of Total	Percent Share Change
Alpena	\$4,853,400	1.7%	\$5,464,400	1.8%	0.013%
Bay de Noc	4,709,800	1.7	5,490,200	1.8	0.072
Delta	13,014,200	4.7	14,704,000	4.7	0.050
Glen Oaks	2,290,700	0.8	2,551,100	0.8	(0.003)
Gogebic	4,017,700	1.4	4,509,900	1.4	0.006
Grand Rapids	16,364,700	5.9	18,187,300	5.8	(0.034)
Henry Ford	19,947,000	7.2	21,893,300	7.0	(0.130)
Jackson	11,062,800	4.0	12,245,300	3.9	(0.039)
Kalamazoo Valley	11,273,300	4.0	12,689,400	4.1	0.028
Kellogg	8,941,800	3.2	9,950,100	3.2	(0.015)
Kirtland	2,792,600	1.0	3,221,500	1.0	0.032
Lake Michigan	4,883,800	1.8	5,417,700	1.7	(0.013)
Lansing	28,236,900	10.1	31,288,200	10.0	(0.089)
Macomb	30,062,200	10.8	33,239,500	10.7	(0.117)
Mid Michigan	4,133,500	1.5	4,757,700	1.5	0.044
Monroe	3,984,800	1.4	4,565,600	1.5	0.036
Montcalm	2,881,000	1.0	3,280,600	1.1	0.019
Mott	14,308,000	5.1	15,901,700	5.1	(0.030)
Muskegon	8,233,600	3.0	9,020,700	2.9	(0.059)
North Central	2,854,000	1.0	3,224,800	1.0	0.011
Northwestern	8,372,000	3.0	9,200,500	3.0	(0.051)
Oakland	19,055,500	6.8	21,429,400	6.9	0.041
St. Clair	6,427,700	2.3	7,158,000	2.3	(0.009)
Schoolcraft	11,227,900	4.0	12,706,400	4.1	0.050
Southwestern	6,092,800	2.2	6,657,600	2.1	(0.049)
Washtenaw	11,442,300	4.1	13,301,100	4.3	0.164
Wayne County	14,982,100	5.4	16,989,800	5.5	0.078
West Shore	2,206,300	0.8	2,446,200	0.8	(0.006)
Total	\$278,652,400	100.0%	\$311,492,000	100.0%	0.000%

Source: Activities Classification Structure (ACS) Data Books and appropriation acts. Amounts include appropriations for operations and at-risk payments. Beginning In FY 2011-12, at-risk payments were rolled into the operations appropriations for community colleges. Amounts do not include appropriations for MPSERS reimbursements or renaissance zone reimbursements.

State Notes

TOPICS OF LEGISLATIVE INTEREST

Fall 2015



Health Insurance Claims Assessment (HICA) Primer **By Steve Angelotti, Associate Director**

Overview

There has been much discussion about the Health Insurance Claims Assessment (HICA) and the Medicaid managed care use tax and the two taxes' role in supporting the State's Medicaid budget. There also has been some confusion about HICA and its origins. This article is intended to clarify how HICA and the managed care use tax came about. The article also discusses the fiscal impact of both a 2018 sunset on HICA and the projected termination of the managed care use tax.

Background

While the Health Insurance Claims Assessment was enacted in 2011, its origin actually is rooted in medical provider taxes enacted in 2002 and 2003.

The Medicaid program is financed by a combination of State tax revenue and Federal matching funds. Federal law allows the use of broad-based medical provider taxes to provide the State match to support the Medicaid program. Federal statutory language enacted in 2002 included specific references to provider taxes on hospital services, long-term care services, physician services, and "Medicaid managed care organizations".

The State of Michigan first enacted provider taxes, under what are called Quality Assurance Assessment Programs (QAAPs), for hospital and long-term care services. Those QAAPs still exist today. The QAAPs impose a broad-based tax on medical providers; pursuant to Federal law, the tax may not exceed 6.0%. The State retains some of the revenue and uses the remaining revenue, combined with Federal Medicaid match, to increase Medicaid payment rates to those providers. As a result of the Federal match, the provider community as a whole is better off (as the Medicaid rate increase to the providers, in gross terms, exceeds the tax paid by the providers). Due to the retention, the State's General Fund also is better off. However, because of the broad-based nature of the tax, and because the Federal government does not allow "gaming" the tax to avoid net losers, some individual providers pay more in tax than they receive in a rate increase.

In the case of Medicaid managed care, the Federal statute did not specify "managed care organizations" but rather "Medicaid managed care organizations". This phrasing created a huge loophole, allowing states to tax just Medicaid health maintenance organizations (HMOs) and other Medicaid managed care providers such as the behavioral health pre-paid inpatient health plans (PIHPs). In other words, managed care provider taxes did not have to be broad-based and could be structured so as not to create any net losers.

Due to this loophole, Michigan established a Medicaid managed care QAAP in 2003. When Michigan instituted the Medicaid managed care QAAP, it could legally be limited to just the Medicaid HMOs and PIHPs, which meant that every entity taxed received a Medicaid rate increase that exceeded the entity's tax liability.

This loophole was closed in 2005, when the statute was changed to refer to "managed care organizations". States such as Michigan that had Medicaid managed care QAAPs were grandfathered, with the loophole phased out in 2009.

When 2009 arrived, the State of Michigan tried a different approach. The managed care QAAP was repealed and Michigan replaced it by changing the Use Tax Act. Medicaid HMOs and Medicaid PHIPs, both as defined in statute, were added to the list of entities subject to the State's 6.0% use tax. In effect, this continued the Medicaid managed care QAAP under a different name, one that technically did not qualify as a provider tax as it was part of a separate general tax.

The Federal government at first allowed the use tax approach, but then began to express strong concern that it was simply an extension of the Medicaid managed care QAAP. When Governor Snyder took office, it became clear to the Administration that there was a significant likelihood that the managed care use tax would be barred. There also was concern that, if the State persisted in collecting the tax, the Federal government could disallow the managed care use tax going back to its implementation in 2009, potentially costing the State hundreds of millions if not billions of dollars.

The Birth of HICA

Due to the concern discussed above, regarding the Medicaid managed care use tax, the Snyder Administration in 2011 proposed ending the managed care use tax and replacing the lost revenue with a 1.0% Health Insurance Claims Assessment, commonly known as HICA. The assessment would apply to paid health claims so, in effect, it was a tax on health insurers (with one significant exemption -- fee-for-service Federal programs such as Medicare and Veterans' services were exempted as the State cannot tax the Federal government). While the tax applied to health insurers, in effect they would pass it along to those who purchased health insurance, in particular employers who provide health care coverage to employees.

After a fair amount of discussion between legislators and the business community, the HICA legislation was enacted in 2011 and took effect on January 1, 2012, with a sunset in 2014. The HICA revenue was dedicated, via statute, to support the State's Medicaid program and to effectively supplant State General Fund/General Purpose (GF/GP) revenue.

HICA Revenue

There were slightly varying estimates of the expected annual revenue from HICA, ranging from \$375.0 million to \$400.0 million. Those estimates were far greater than the actual annual revenue, which was in the neighborhood of \$260.0 million. There were two main reasons for the overstated estimates: First, the estimates of the tax base underestimated the significant increase in out-of-pocket expenditures by patients, expenditures that were not subject to the tax. Second, many self-insured entities contracted with out-of-state insurers and the State did not have a means to collect taxes from those insurers.

Because of this shortfall, the State repeatedly had to fill the gap with other fund sources, such as GF/GP and Tobacco Settlement revenue. The Snyder Administration proposed increasing the HICA rate, at one point to 1.5%, at another point to a fluctuating rate that would ensure the collection of \$400.0 million. Subsequently, the Administration proposed a fee of \$25 per auto insurance policy, as part of a broader auto insurance reform measure, to fill the revenue gap. None of these proposals gained traction with the Legislature. However, a delay of the HICA sunset to January 1, 2018, was enacted.

Return of the Use Tax

The State of California, facing a budgetary shortfall, enacted a managed care use tax similar to the one that Michigan had used. The Snyder Administration asked the Federal government for permission to re-enact the managed care use tax. The Federal government, having allowed California to enact such a use tax, agreed to allow Michigan to do so for a then-unspecified limited time period.

The new managed care use tax was tied to changes in HICA. The HICA statute was changed to state that, as long as the managed care use tax was allowed by the Federal government, the HICA rate would be reduced from 1.0% to 0.75%. Furthermore, a cap on total net revenue from the combined managed care use tax and HICA of \$450.0 million was established. Revenue in excess of that amount effectively would be returned to HICA payers via rebates in the subsequent year.

Phase-Out of the Use Tax

The Federal government has informed the State that it will no longer support the managed care use tax after the end of the 2015-2016 legislative session. If Federal policy is not changed, this effectively means that the use tax will expire on January 1, 2017.

Three things will happen if the Medicaid managed care use tax expires: First, the State will see a net reduction in GF/GP use tax revenue of \$190.0 million in fiscal year (FY) 2016-17 and \$253.0 million in FY 2017-18 compared with the amount collected in FY 2015-16. Second, the State will see a net reduction in School Aid Fund use tax revenue of \$153.0 million in FY 2016-17 and \$204.0 million in FY 2017-18, compared with the amount collected in FY 2015-16. Finally, the HICA rate will increase from 0.75% to 1.0% on January 1, 2017, thereby increasing HICA revenue by \$60.0 million in FY 2016-17 and offsetting an equivalent amount of GF/GP revenue.

The net impact will be a total GF/GP budget that is worse off by \$130.0 million in FY 2016-17 and \$253.0 million in FY 2017-18. However, the FY 2017-18 figure does not take into account the HICA sunset.

The HICA Sunset

Under the statute, HICA is scheduled to expire on January 1, 2018. If it takes effect, that expiration will result in a net reduction in HICA revenue of \$130.0 million in FY 2017-18 compared with FY 2015-16 and a net reduction in HICA revenue of \$212.0 million in FY 2018-19 compared with FY 2015-16 once the full expiration is annualized. That reduction in revenue will result in an increase of GF/GP costs of \$130.0 million in FY 2017-18 and \$212.0 million in FY 2018-19.

If No Changes Are Made

If no changes are made to the HICA statute, the expiration of the managed care use tax and sunset of the HICA statute will result in an increase in GF/GP costs for Medicaid of \$130.0 million in FY 2016-17, \$383.0 million in FY 2017-18, and \$465.0 million in FY 2018-19, compared with the FY 2015-16 appropriations. Furthermore, there will be a decrease in School Aid Fund revenue of \$153.0 million in FY 2016-17, and \$204.0 million in FY 2017-18 and FY 2018-19 due to the expiration of the managed care use tax.

There are other cost pressures within the Department of Health and Human Services (DHHS) tied to Medicaid. The State must begin to pay 5.0% of the cost of Medicaid expansion on January 1, 2017, a match that increases to 6.0% on January 1, 2018. The Senate Fiscal Agency (SFA) estimates that this will increase GF/GP costs by \$143.0 million in FY 2016-17 and \$218.0 million in FY 2017-18.

Overall, assuming no changes in the HICA statute and the expiration of the managed care use tax, the SFA estimates that it will cost more than \$600.0 million in additional GF/GP revenue in FY 2017-18 to run the Medicaid program, including the Medicaid expansion, as it currently exists compared with FY 2015-16. This will put pressure on the overall State budget at a time when there are other pressing needs, such as transportation funding.

If the HICA sunset were delayed, the pressure would be alleviated by approximately \$330.0 million or so per year. If the HICA rate were increased to 1.3%, as the Snyder Administration has proposed, then the net GF/GP demand would be reduced by approximately \$430.0 million.

Misunderstandings about HICA and Medicaid Expansion

There have been recent newspaper editorials implying that HICA was enacted in association with the expansion of Medicaid and that HICA was intended to fund the State's eventual share of the expansion costs. These implications are incorrect.

The *Detroit Free Press* stated, in a September 15, 2015, editorial, "[w]hen Michigan expanded its Medicaid program in 2012, as part of the federal Affordable Care Act, the legislature repealed the use tax it had previously levied to fund the state's portion of the program's costs". The editorial is incorrect. The original Medicaid managed care use tax was repealed in 2011. The Health Insurance Claims Assessment was created in 2011. The decision to expand Medicaid was made in 2013. There was no linkage. In fact, in 2011, the Medicaid expansion was viewed as basically being mandatory; it was only after a U.S. Supreme Court decision in June 2012 that expansion effectively became optional.

Furthermore, the State will not face any costs from expansion of Medicaid until 2017. Therefore, even if HICA were intended to pay for the State's share of expansion costs, the first five years of HICA revenue, from 2012 to 2016, could not have been used to cover then-nonexistent State expansion costs. In reality, HICA was created to maintain current levels of Medicaid funding once it became apparent that the Federal government was no longer going to support the first iteration of the Medicaid managed care use tax. The Health Insurance Claims Assessment was not tied to Medicaid expansion at all.

Conclusion

There are significant cost pressures on the State budget related to many issues. The anticipated expiration of the Medicaid managed care use tax, the sunset of HICA, and the requirement that the State help match the costs of Medicaid expansion beginning January 1, 2017, will greatly increase those GF/GP cost pressures, by well over half a billion dollars per year. Delaying the sunset on HICA or increasing the HICA rate would alleviate those pressures. There have been misunderstandings about the purpose of HICA; it was not created to cover the costs of Medicaid expansion, but rather to fill a funding hole tied to the 2011 repeal of the Medicaid managed care use tax.

State Notes

TOPICS OF LEGISLATIVE INTEREST

Fall 2015



Updating Michigan's Voting Machine Technology Joe Carrasco, Jr., Fiscal Analyst

Introduction

If people remember the terms "hanging", "dimpled", and "pregnant chads", then they probably recall the problems of the November 2000 presidential election. In particular, someone might remember the recounting of the votes in Florida and the legal battle that ensued to determine the winner. Ultimately, on December 12, 2000, the United States Supreme Court ruled in *Bush v. Gore* (531 U.S. 98) that the Florida recount could be suspended, which led to the election of George W. Bush as the 43rd President of the United States. The problems of the November 2000 election in Florida exposed the antiquated voting systems that were being used across the country and contributed to the passage of the Help America Vote Act of 2002. The Help America Vote Act (HAVA) required all states to update their voting and election systems. This article will provide a brief background on HAVA, Michigan's plan, the growing need again to replace voting systems across Michigan, and the associated costs.

The Help America Vote Act

President Bush signed HAVA into law on October 29, 2002. Although the presidential election of 2000 was not the primary reason for the law's enactment, it was a contributing factor. The Help America Vote Act was implemented to accomplish three principal goals:

- To replace outdated and unreliable punch card and lever-based voting systems;
- To create the Election Assistance Commission to help with the administration of Federal elections and serve as a national clearinghouse and resource of information for election administration materials; and
- To create a mandatory minimum standard for election administration that all 50 states and local units of government would follow.¹

The Help America Vote Act required states to implement new programs and procedures to reform the voting process and to increase voter turnout and education. To accomplish this, states were required to develop a provisional voting system; make voting easily accessible and mainstream voting information; update and upgrade voting equipment; create a statewide voter registration database; streamline voter identification procedures; and develop administrative complaint procedures.

The law provided Federal funding to states to meet these goals and to purchase new voting machines. Michigan was ahead of the curve in terms of moving to modernized voting systems; before HAVA was enacted, however, over a quarter of Michigan's voting precincts still used voting systems that were seen as outdated. Of Michigan's 5,305 voting precincts, 866 (16.3%) used punch card systems; 445 (8.4%) used lever-style voting machines; and 98 (1.8%) used paper ballots in 2002.² The remaining precincts across Michigan (73.5%) were using an electronic form of voting system: either an optical scan system or a direct recording equipment (DRE) system using touchscreens.

In regard to voter registration and a voter information database, Michigan already had in place the Branch Office Voter Registration Program (VRP) and the Michigan Qualified Voter File (QVF). The

¹ Help America Vote Act of 2002, Public Law 107-252.

² Help America Vote Act, Michigan's State Plan; September 27, 2005; p. 1.

first of its kind in the United States, the Voter Registration Program allows people to register to vote or update their voter registration at any Secretary of State branch office. This program was a precursor to the motor/voter program mandated under the National Voter Registration Act of 1993.³

The VRP increased the number of new and updated voter registration transactions processed statewide. It also created a program that provided timely and updated voter registration information to each local clerk in the State; this increase in transactions increased workloads for Michigan's counties, cities, and townships. Local units of government across Michigan began to absorb increased costs related to maintenance of voter registration files. Public Act 441 of 1994 was enacted to further modernize this program. The Act required Michigan's Secretary of State to establish and maintain a statewide file of qualified voters and to create "a more centralized system of record-keeping and tracking of voter activity across the State".⁴ The legislation required the QVF to be in place for all elections held on or after January 1, 1998. Michigan did in fact have the QVF in place for those elections. Since its inception, Michigan's QVF has been viewed as a model nationally.

Michigan's Response to the HAVA Requirement of Replacing Voting Systems

In addition to the goals presented above regarding the Help America Vote Act, the Federal law was intended to strengthen the states' election process in three specific areas:

- Improving access at polling sites;
- Replacing old voting equipment; and
- Making it easier for people with disabilities and overseas military personnel to vote.

As mentioned earlier, Federal funding was provided in order for states to meet the goals and requirements of HAVA; however, to qualify for Federal funding, states had to submit to the Election Assistance Commission (EAC) a State Plan outlining how they would meet the Act's requirements. The State Plan was to be developed with the input of an advisory committee appointed by the chief elections official and include how the state would: meet technology and election administration requirements; budget and monitor the funds it would receive; adopt voting system guidelines consistent with the new Federal requirements under HAVA; educate voters and poll workers; adopt performance measures; and meet other specified requirements and criteria.⁵ Michigan submitted its State Plan to the EAC on December 19, 2003.⁶

Because Michigan already had in place the VRP and QVF systems, meeting the requirements of HAVA for these elements required less Federal funding than was needed by other states without established systems of these types. The primary use of the Federal funding Michigan received was to replace voting systems and improve access to polling sites, particularly for individuals with disabilities.

³ Help America Vote Act, Michigan's State Plan; September 27, 2005; p. 3.

⁴ Eric Limbs, *The Status of the Qualified Voter File*, Senate Fiscal Agency Issue Paper, June 1999, p. 1.

⁵ Michigan Secretary of State News Release; *Secretary Land Announces Help America Vote Act Advisory Committee*; March 20, 2003; <http://www.michigan.gov/sos/0,1607,7-127--63826--,00.html>.

⁶ The details of Michigan's State Plan can be obtained at http://www.michigan.gov/documents/HAVA_State_Plan_2005_110305_141231_7.pdf.

Federal Funding and Voting Machine Replacements

Federal funding was provided to Michigan via three separate grants related to the allowable use of the funds under HAVA Titles I, II, and III. Title I earmarked funds for election administration and replacement of punch card and lever-based voting machines. Title II funds were for the creation of the Election Assistance Commission and were distributed to assist states in complying with the EAC's requirements. Title III did not earmark any Federal funds but established new requirements in the areas of voting technology and election administration in Federal elections.⁷ The funding provided to Michigan is commonly referred to as Section 101 funds, Section 102 funds, and Section 251 funds. Section 101 and 102 funds are governed by the provisions in HAVA Title I while Section 251 funds are governed by HAVA Title II. (Appendix A contains details on allowable expenditures under these sections.)

Section 101 funds were primarily used to improve the administration of Federal elections. These funds did not require a state match and were less restrictive than Section 102 and 251 funds. Section 102 funds also did not require a state match and were used for the replacement of punch card and lever-based voting machines. Section 251 funds, which required a 5% state match, were distributed based on a formula of Michigan's voting age population compared to the voting age population of all the states.

According to the Election Assistance Commission, "Generally, the funds are to be used to procure voting systems that comply with the requirements of Title III, Section 301 Voting System Standards of HAVA; implement provisional voting (i.e., allowing a voter whose registration status cannot be confirmed to cast a provisional ballot); provide information to voters in the polling place such as general information on voting rights; develop and implement a computerized statewide voter registration list; and implement identification requirements for first-time voters who register to vote by mail."⁸

Of the nearly \$3.3 billion of HAVA funds distributed to all the states under Sections 101, 102, and 251, Michigan received a total of approximately \$104.2 million from 2003 to 2011. Table 1 illustrates the funds received by type.

Table 1 Help America Vote Act (HAVA) Title I and Title II Funds Awarded and Disbursed to Michigan by the U.S. Election Assistance Commission (Updated as of May 1, 2015)				
Total Required 5% State Match	Total Sec. 251 Funds Received	Total Sec. 101 Funds Received	Total Sec. 102 Funds Received	Total HAVA Funds Received
\$4,661,867	\$88,535,685	\$9,207,323	\$6,432,323	\$104,175,331

Source: Michigan Department of State, derived from actual receipts from the U.S. Election Assistance Commission

⁷ *The E-book on Election Law, Part 5: Voting Procedures*; The Ohio State University, 2004 e-book.
<http://moritzlaw.osu.edu/electionlaw/ebook/part5/hava.html>

⁸ U.S. Election Assistance Commission, *Strengthening the Electoral System One Grant at a Time: A Retrospective of Grants Awarded by EAC April 2003-2010*; Appendix B, p. 4.

Appendix B details the amount of HAVA funds received by all of the states under Sections 101, 102, and 251.

Michigan purchased and replaced voting systems statewide between 2004 and 2006 using the Federal funding provided through HAVA. From the total HAVA funds Michigan received, nearly \$34.3 million, or 32.9%, was used to purchase optical scan voting systems, which also then converted Michigan to a uniform voting system statewide. Table 2 shows the portion of each fund that was used to replace voting machines.

Table 2

Michigan HAVA Funds Awarded and Amount of Each Fund Spent on Voting Machine Replacement and Installing Accessible Voting Machines					
Source of Federal Funds	Total Funding Received	Amount of Funding Used to Replace Standard Voting Machines	Percent of Funds used on Standard Machine Replacements	Amount of Funding Used to Install Accessible Voting Machines	Percent of Funds Used to Install Accessible Voting Machines
Sec. 101	\$9,207,300	\$560,000	6.1%	N/A	N/A
Sec. 102	6,432,300	6,400,000	99.5	N/A	N/A
Sec. 251	88,535,700	27,300,000	30.8	27,400,000	30.9%
Total	\$104,175,300	\$34,260,000	32.9%	\$27,400,000	26.3%
Total HAVA funds received					\$104,175,300
Funding spent on voting machine replacement					(61,660,000)
Other HAVA expenditures					(17,500,000)
HAVA balance remaining					\$25,015,300

Source: Michigan Department of State, derived from actual receipts from the U.S. Election Assistance Commission

In addition, \$27.4 million of the Section 251 funds (or 26.3% of the total) was used to purchase and implement fully accessible voting systems for use by individuals with disabilities. As noted in Appendix A, one of the allowable uses of Title II funds is to make polling places themselves more accessible in order to provide an equal opportunity and equal access to participation to individuals with disabilities. Thus, nearly \$61.7 million, or 59.2%, of the total Federal funding provided to Michigan was used to replace voting equipment and to make polling places more accessible to individuals with disabilities. The remaining \$42.5 million, or 40.8%, of the Federal funding received was used to comply with additional requirements of HAVA, such as voter registration, election administration, provisional voting, and preparation of the State Plan. While some of the original HAVA funding remains, HAVA funds notably were spent to develop and deploy electronic pollbooks, make continual improvements to the State's Qualified Voter File, develop and implement an online continuing training and education program for clerks statewide, and provide for ongoing voting system service and maintenance.

Further, Title II includes Section 261 and Section 291 funds, which were used to make grants to states and state protection and advocacy systems to promote voting access for individuals with disabilities. These funds were distributed by the U.S. Department of Health and Human Services and are not included in the amounts discussed above (although the permissible uses are detailed in Appendix A).

Voting Systems, their Expected Usefulness, and Estimated Costs of Replacement

It is generally agreed across the nation that the majority of the voting systems purchased with the HAVA funding provided from 2004 to 2006 are beginning to reach the end of their useful life. A January 2014 bipartisan report by the Presidential Commission on Election Administration issued a warning that an "impending crisis" was looming due to the widespread degradation of voting machines purchased over a decade ago. The report noted that jurisdictions do not have the funds to purchase new machines.⁹

As mentioned earlier, Michigan used Federal funds to replace voting systems statewide with a uniform system (optical scan) and systems specifically designed to be fully accessible for individuals with disabilities. According to the Department of State, these systems are due for replacement with new systems that provide better software and several other notable improvements, "especially with respect to the processing of optical scan ballots, the programming of voting systems and the resulting compilation and transmittal of election night results, and the options available to disabled voters".¹⁰ For example, the machines purchased between 2004 and 2006 use Microsoft Windows XP for their operating system. Windows XP has not been available for purchase since 2008, however, and Microsoft has not provided support or security updates since 2014.

The Department of State has estimated the cost of replacing all voting equipment across the State to be approximately \$55.0 million to \$60.0 million. As shown in [Table 2](#), nearly \$34.3 million was spent on the replacement of standard voting machines, which included the replacement of punch card and lever-based voting systems, and \$27.4 million was spent on the installation of voting machines that were fully accessible to people with disabilities. The \$61.7 million total that was spent for replacements between 2004 and 2006 included replacing voting equipment in 5,300 precincts. Due to redistricting of legislative and congressional districts after the 2010 census, consolidation of voting precincts took place in several jurisdictions and dropped the number of precincts in 2015 to fewer than 5,000. Thus, the Department's estimated cost of \$55.0 million to \$60.0 million to replace both standard and accessible voting machines across the State is based on this lower number of precincts.

Michigan is unique in that an estimated \$25.0 million of the State's HAVA funding remains unspent. The HAVA funds that remain after all of the Act's requirements have been met may be used by states for any election or voting costs in future years, which includes voting system replacement. Thus, Michigan's \$25.0 million in remaining HAVA funds will be used for the replacement of voting machines across the State. The Department of State anticipates that the purchase and replacement of voting machines across the State will be a process across multiple fiscal years.¹¹

Given the \$25.0 million in Federal HAVA funds in reserve, the Department of State estimates that it would need approximately \$30.0 million to \$35.0 million in additional State funding to meet the cost of replacing all voting machines across the State. In fact, the Michigan Senate included a \$10.0 million appropriation for voting machine replacements in its budget recommendation for FY 2015-16 but ultimately that funding was eliminated by the conference committee and not included in the final FY 2015-16 enacted budget.

⁹ Lawrence Norden and Christopher Famighetti, *America's Voting Machines At Risk*, Brennan Center for Justice at New York University School of Law, September 2015, p. 4.

¹⁰ Michigan Department of State, *Voting Equipment Summary Information*, April 2015, p. 1.

¹¹ Ibid.

Finally, the Department of State, in conjunction with the Michigan Department of Technology, Management, and Budget, has begun the process of coordinating a State-level bid and contract process (similar to the one used for the original replacement of voting systems from 2004 to 2006). The Department of State would like all of the new voting machines to be in place by the general election in November 2018. To meet that goal, the Department would need a commitment from the State that the additional \$30.0 million to \$35.0 million in funding would be provided in the next two or three budget cycles.

Conclusion

Though the 2000 presidential election was not the sole reason for the enactment of HAVA in 2002, it was a defining moment that magnified the voting system problems that existed across the nation and exposed the antiquated systems that were in place at the time. The result of HAVA provided states across America with nearly \$3.3 billion not only to replace voting systems, but also to create a better system to administer elections and to strengthen the election process nationwide.

As noted, Michigan received a total of \$104.2 million in Federal HAVA funds. Of that amount, \$34.3 million was used to replace punch card and lever-based systems and other standard voting equipment. In addition, \$27.4 million of the total was used to install voting machines that were fully accessible to individuals with disabilities as required under HAVA. An additional \$17.5 million was spent on meeting other requirements of HAVA, while \$25.0 million remains unspent.

Due to the expected life cycle of the voting machines replaced more than a decade ago, the time has come for Michigan to begin the process of replacing those systems. The Michigan Department of State estimates that replacement cost at \$55.0 million to \$60.0 million. The plan is to replace those systems on a rolling basis over a three- to four-year period. The Department has retained an estimated \$25.0 million of the original HAVA funds received that can be used for those costs. The goal of having all the voting systems across Michigan replaced by the general election in November 2018 will require additional State funding of an estimated \$30.0 million to \$35.0 million. The decision to appropriate the funds ultimately will be made by the Michigan Legislature.

Permissible Uses of HAVA Funds Made Available to States	
HAVA Program	Permissible Uses
Title I, Section 101 <i>Election Administration Improvement Payments</i>	<ul style="list-style-type: none"> • Complying with the requirements under Title III (uniform and nondiscriminatory election technology and administration requirements). • Improving the administration of elections for Federal office. • Educating voters concerning voting procedures, voting rights, and voting technology. • Training election officials, poll workers, and election volunteers. • Developing the State Plan for requirements payments to be submitted under part 1 of subtitle D of Title II. • Improving, acquiring, leasing modifying, or replacing voting systems and technology and methods for casting and counting votes. • Improving the accessibility and quality of polling places, including providing physical access for individuals with disabilities, providing nonvisual access for individuals with visual impairments, and providing assistance to Native Americans, Alaska Native citizens, and individuals with limited proficiency in the English language. • Establishing toll-free telephone hotlines that voters may use to report possible voting fraud and voting rights violations, to obtain general election information, and to obtain detailed automated information on their own voter registration status, specific polling place locations, and other relevant information.
Title I, Section 102	Only to replace punchcard and lever voting systems
Title II, Section 251 <i>Requirements Payments</i>	<p>Only to meet HAVA Title III requirements for:</p> <ul style="list-style-type: none"> • Equipment that meets voting systems standards; • Provisional voting; • Voting information; • Statewide voter registration list; • Voters who register by mail. <p>Exception: State may use these funds for other improvements to the administration of Federal elections after meeting the Title III requirements, or if the amount is not more than the minimum payment (2003 = \$4,150,000; 2004 = \$7,229,205; Total = \$11,596,803)</p>
Title II, Section 261 <i>Access to Polling Places</i>	<ul style="list-style-type: none"> • Making polling places (including the path of travel, entrances, exists, and voting areas of each polling facility) accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. • Providing individuals with disabilities, including the blind and visually impaired, with information about the accessibility of polling places, including: <ul style="list-style-type: none"> ○ outreach programs to inform the individuals about the availability of accessible polling places; ○ training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections for Federal office.
Title II, Section 291 <i>Made available to state protection and advocacy systems</i>	<p>The remainder, to ensure full participation in the electoral process for individuals with disabilities, including:</p> <ul style="list-style-type: none"> • Registering to vote; • Casting a vote; • Getting to polling places.
<i>Made available via competitive grant to qualifying entities</i>	<p>Also, 7% for set aside for training and technical assistance with respect to the participation of individuals with disabilities, including nonvisual access, to:</p> <ul style="list-style-type: none"> • Support training in the use of voting systems and technologies; • Demonstrate and evaluate the use of such systems and technologies, by individuals with disabilities, in order to assess the availability and use of such systems and technologies for individuals with disabilities.

Source: U.S. Election Assistance Commission, February 2005

Help America Vote (HAVA) Title I and Title II Funds Awarded and Disbursed to States by the U.S. Election Assistance Commission					
State	Total Required State Match	Total Sec. 251 Funds Received ¹⁾	Total Sec. 101 Funds Received ¹⁾	Total Sec. 102 Funds Received ¹⁾	Total HAVA Funds Received ¹⁾
Alabama	\$2,118,275	\$40,227,862	\$4,989,605	\$919	\$45,218,386
Alaska	685,698	13,021,803	5,000,000	0	18,021,803
American Samoa	0	2,490,652	1,000,000	0	3,490,652
Arizona	2,396,942	45,516,687	5,451,369	1,564,188	52,532,244
Arkansas	1,276,077	24,233,666	3,593,165	2,569,738	30,396,569
California	15,598,713	296,375,483	27,340,830	57,322,707	381,039,020
Colorado	2,040,372	38,767,048	4,860,301	2,177,095	45,804,444
Connecticut	1,637,361	31,095,158	5,000,000	0	36,095,158
Delaware	685,698	13,021,803	5,000,000	0	18,021,803
District of Columbia	685,698	13,021,803	5,000,000	0	18,021,803
Florida	7,822,794	148,633,048	14,447,580	11,581,377	174,662,005
Georgia	3,823,255	70,674,392	7,816,328	4,740,448	83,231,168
Guam	0	2,319,361	1,000,000	0	3,319,361
Hawaii	685,698	13,028,257	5,000,000	0	18,028,257
Idaho	685,698	13,021,803	5,000,000	0	18,021,803
Illinois	5,820,904	110,597,147	11,129,030	33,805,617	155,531,794
Indiana	2,866,637	54,440,283	6,230,481	9,522,394	70,193,158
Iowa	1,402,415	26,645,880	5,000,000	0	31,645,880
Kansas	1,264,917	24,033,425	5,000,000	0	29,033,425
Kentucky	1,943,120	36,901,642	4,699,196	469,229	42,070,067
Louisiana	2,071,080	39,350,512	4,911,421	7,351,684	51,613,617
Maine	685,698	13,021,803	5,000,000	0	18,021,803
Maryland	2,508,588	47,663,156	5,636,731	1,637,609	54,937,496
Massachusetts	3,083,661	57,005,182	6,590,381	1,519,497	65,115,060
Michigan	4,661,867	88,535,685	9,207,323	6,432,323	104,175,331
Minnesota	2,313,800	43,962,194	5,313,786	0	49,275,980
Mississippi	1,324,437	25,152,465	3,673,384	1,778,067	30,603,916
Missouri	2,652,363	50,394,880	5,875,170	11,472,841	67,742,891
Montana	685,698	13,028,257	5,000,000	0	18,028,257
Nebraska	812,758	15,442,404	5,000,000	0	20,442,404
Nevada	955,560	18,155,632	5,000,000	0	23,155,632
New Hampshire	685,698	13,021,803	5,000,000	0	18,021,803
New Jersey	4,018,969	76,360,392	8,141,208	8,695,609	93,197,209
New Mexico	844,090	15,599,671	5,000,000	0	20,599,671
New York	9,056,679	172,076,865	16,494,325	49,603,917	238,175,107
North Carolina	3,866,319	73,421,775	7,887,740	893,822	82,203,337
North Dakota	685,698	13,028,257	5,000,000	0	18,028,257
Ohio	5,372,100	102,069,874	10,384,931	30,667,664	143,122,469
Oklahoma	1,633,847	30,200,723	5,000,000	0	35,200,723
Oregon	1,644,374	31,243,106	4,203,776	1,815,796	37,262,678
Pennsylvania	5,937,992	112,821,809	11,323,168	22,897,794	147,042,771
Puerto Rico	308,856	5,868,252	3,151,144	0	9,019,396
Rhode Island	685,698	13,021,803	5,000,000	0	18,021,803
South Carolina	1,914,980	36,384,617	4,652,412	1,998,330	43,035,359
South Dakota	685,698	13,021,803	5,000,000	0	18,021,803
Tennessee	2,730,408	51,877,746	6,004,507	2,473,971	60,356,224
Texas	9,486,939	180,251,801	17,206,595	6,266,685	203,725,080
Utah	973,242	18,481,440	3,090,943	5,726,844	27,299,227
Vermont	685,698	12,453,257	5,000,000	0	17,453,257
Virginia	3,394,700	64,499,288	7,105,890	4,526,569	76,131,747
Virgin Islands	0	2,319,361	1,000,000	0	3,319,361
Washington	2,787,119	52,955,253	6,098,449	6,799,430	65,853,132
West Virginia	904,472	17,184,960	2,977,057	2,349,474	22,511,491
Wisconsin	2,543,112	48,296,088	5,694,036	1,308,810	55,298,934
Wyoming	685,698	13,028,257	5,000,000	0	18,028,257
Total	\$136,728,170	\$2,599,267,572	\$349,182,262	\$299,970,448	\$3,248,420,282

¹⁾ Updated as of May 1, 2015

Source: U.S. Election Assistance Commission

Ellen Jeffries, Director – Lansing, Michigan – (517) 373-2768

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State Notes

TOPICS OF LEGISLATIVE INTEREST

Fall 2015



An Update on the Remonumentation Grant Program **By Josh Sefton, Fiscal Analyst**

Recent legislative changes to the Remonumentation Grant Program administered by the Department of Licensing and Regulatory Affairs (LARA) have raised a number of questions about the program. This article seeks to provide background information on the program, describe the legislative changes, and discuss the timeline for completion of the remonumentation process.

Background

The Office of Land Survey and Remonumentation within LARA is responsible for the administration of the State Survey and Remonumentation Act (SSRA), Public Act (PA) 345 of 1990. The SSRA provides for the identification and marking of corner positions in each county; the markers at these locations form the basis for property boundaries in Michigan. Before the SSRA was enacted, many of the corner markers relied upon by local surveyors were the ones placed during the original government surveys of Michigan conducted between 1815 and 1857. In more developed urban and suburban areas, these corner markers had been maintained due to frequent use, but in rural areas many markers were still the originals. Additionally, over a century-and-a-half has elapsed since the most recent of the original surveys, so many of the corner markers are damaged or missing.

The goal of the SSRA was to establish a program for counties to be able to locate, inspect, and repair or replace all of their original survey markers over a 20-year period. Each county, in order to be eligible for funding, was required to establish and adhere to a plan to appropriately remonument the corners in the county, and to provide for the maintenance of the new or repaired markers. Public Act 346 of 1990 established a \$2 (now \$4) increase in the recording fees collected by county register of deeds offices. This additional revenue is remitted to the State for deposit in the Survey and Remonumentation Fund, and then distributed back to counties as remonumentation grants.

In addition to providing for the replacement of original markers, county plans also must contain a provision for perpetual monument maintenance to ensure that damaged or missing monuments are replaced. The statute allows counties to receive grants for their perpetual maintenance plans.

Legislative Changes to the Program

Since the SSRA was enacted, the Legislature has made a number of changes to the program, starting with PA 5 of 1998. Public Act 5 allowed counties to expedite their county plans by essentially lending themselves money for remonumentation, which would later be repaid through future grants or through a contractual agreement with the Department. A few years later, PA 489 of 2002 expanded this by allowing counties to issue bonds to expedite their plans and then repay the bonds through a contractual agreement with the Department. Only Oakland and Ottawa Counties elected to expedite their plans, and neither chose to issue bonds to do so. Public Act 166 of 2014 removed the provisions for expedited plans.

Probably the most significant legislative change to the program from the standpoint of completion of remonumentation was PA 700 of 2002, which increased the \$2 recording fee for remonumentation to \$4. Public Act 700 contained a provision that would have reversed that increase on January 1, 2013, but PA 662 of 2006 delayed that reversal to January 1, 2023.

The final amendments made to the SSRA were by PA 166 of 2014. In addition to removing the provision for expedited county remonumentation plans, PA 166 made a number of other changes, including provisions that require revisions to county plans and allow protracted corners that were not marked during the original surveys to be monumented using remonumentation grants. Public Act 166 also changed the minimum amount of perpetual maintenance grants available each year from 5.0% of the total appropriation for remonumentation grants to a grant floor on a county-by-county basis. Now, if a county receives a perpetual maintenance grant, it must be in an amount not less than 20.0% of the total collections of \$4 remonumentation recording fees collected in that county two fiscal years before the fiscal year the grant was issued. Allowing corner markers that were not part of the original government surveys to be monumented means that the total number of corners likely will increase from the original 225,218. At the present time, it is unknown what the final number may be, as counties are still in the process of updating their county plans.

When Remonumentation will be Complete

The original time frame for the complete remonumentation of Michigan within 20 years has passed. According to the program's 12th Biennial Report to the Legislature, dated September 2015, 138,810 of the estimated 225,218 total corners had been completed as of 2014. At the present pace, and with the funding levels currently available, the report states that it may take another 20 years before remonumentation is completed.

The report does not specify a particular reason that the program will take much longer to complete than had originally been anticipated. Based on the original Senate Fiscal Agency analysis of PAs 345 and 346 of 1990, however, it is clear that the original estimate for the number of corner markers was much lower than the actual number, and the cost to replace each marker was lower than the actual costs as well. Estimates from the 1990 bill analysis assumed that a total of 165,200 markers would be replaced for \$500 each, for a total cost of \$82.6 million in 1990 dollars. At the time, it was expected that the \$2 recording fee would generate about \$3.1 million per year, which would have allowed for the remonumentation of the entire State within 27 years. The estimate for the number of corners was incorrect, however, and did not count about 60,000 corners. Additionally, the \$2 recording fee, while ultimately doubled to \$4 in 2002, was not indexed to inflation and effectively lost about 2.2% of its original value each year for the first 11 years of the program.

Another factor that has worked against the completion of remonumentation was the housing bubble of the mid-2000s, which began to manifest itself in the form of reduced recording fees during fiscal year (FY) 2004-05. Since a significant portion of recording fee revenue is generated from residential real estate transactions, the slowdown in the housing market had a significant negative impact on that revenue. Table 1 provides revenue and expenditure figures for the program. Annual revenue for the program peaked in FY 2003-04 at \$14.7 million, and by FY 2007-08 it had fallen by over half to \$7.2 million. While official figures for FY 2014-15

are not yet available, an accounting query from the Michigan Administrative Information System reveals that revenue for FY 2014-15 will likely be about \$6.9 million less than in FY 2002-03, which was the first full year the \$4 recording fee had been in place.

Finally, PA 76 of 2006 redirected \$15.0 million from the Survey and Remonumentation Fund to the State General Fund as part of the budget resolution for FY 2005-06, and delayed completion of the program by another two or three years. There was language in PA 76 indicating the intent to repay that money sometime in the future, but that repayment has not occurred, and the intent language was removed from the statute by PA 166 of 2014.

The actual number of corners, as indicated by the Biennial Report, is 225,218, and the average cost to replace a corner is currently \$902.39. The total cost, assuming the work could be completed at what has been the historical average cost to replace a marker, would be \$203.2 million. This ignores, however, the effect that inflation has had on the measure of average cost in this program. The \$902.39 figure represents the average nominal cost to replace a marker between 1991 and 2014, a period during which inflation averaged about 3.2% annually. For the 2015 grant cycle, the Office of Land Survey and Remonumentation has proposed an average cost of \$1,422 per corner. Multiplying this by the 86,408 corners that have not yet been remonumented yields a total remaining cost for remonumentation of \$122.9 million in 2015 dollars. Since available revenue is typically around \$7.0 million per year with a portion going to program administrative costs as well as perpetual maintenance plan grants, the estimate of the Biennial Report that the remonumentation process could take another 20 years seems reasonable, and it would not be surprising to see the process take longer than that as costs continue to increase and revenue remains relatively constant.

Table 1 provides annual revenue and grant expenditures from the Survey and Remonumentation Fund. In total, about \$162.0 million has been collected from the \$4 (\$2 prior to 2002) recording deed fees for remonumentation and from interest and earnings on the Fund. Of that, about \$135.6 million was distributed back to counties as grants, \$15.0 million was transferred to the State General Fund to balance the State budget in FY 2005-06, and about \$10.7 million was used for costs related to administration of the program. Approximately \$2.5 million remains as a balance in the Survey and Remonumentation Fund as of the end of FY 2014-15.

Once remonumentation is complete, counties will move into the maintenance phase of their county plans, which includes periodic inspection and replacement of each corner marker. While maintenance of those markers should be an easier job than original remonumentation, given accurate geodetic coordinates for each marker as now required in county plans and other factors, a steady stream of funding will still be necessary. The Biennial Report states that \$10.0 million per year would be necessary to maintain each remonumented corner on a 20-year cycle; this amount has not been collected in a single year since FY 2005-06. It should be noted, however, that the statutory requirement for perpetual monument maintenance plans to provide for all corners to be checked on a 20-year cycle was removed by PA 166 of 2014. Maintenance will remain necessary, but the statute no longer specifies the time frame.

Table 1

Remonumentation Program Financial Information FY 1990-91 through 2014-15				
Fiscal Year	Survey and Remonumentation Fund Revenue	Remonumentation Grants Issued	Program Administrative Costs	Survey and Remonumentation Fund Year-End Balance
1990-91 thru				
1993-94 ^{a)}	\$13,258,800	\$9,126,100	\$1,040,200	\$3,092,600
1994-95	3,638,400	2,523,000	548,600	3,659,300
1995-96	4,300,800	4,223,000	512,500	3,224,700
1996-97	3,843,300	4,115,000	509,400	2,443,500
1997-98	5,181,100	3,834,200	520,500	3,269,900
1998-99	5,737,300	3,798,000	349,500	4,859,700
1999-00	5,458,200	4,392,300	239,700	5,685,900
2000-01	5,530,600	4,866,200	195,600	6,154,600
2001-02	7,050,800	5,893,600	174,000	7,137,700
2002-03	8,801,500	5,905,900	219,400	9,813,900
2003-04	14,743,500	9,696,000	201,400	14,660,000
2004-05	11,262,800	10,145,600	260,700	15,539,200
2005-06	(3,651,500) ^{b)}	9,832,700	292,100	1,848,600
2006-07	8,713,000	10,612,000	404,400	354,200
2007-08	7,160,100	7,617,100	418,000	0
2008-09	6,157,000	4,041,700	497,200	1,531,200
2009-10	6,047,400	5,087,000	647,200	1,844,300
2010-11	5,576,000	5,292,800	607,100	1,969,100
2011-12	6,827,700	5,070,100	748,700	2,978,000
2012-13	7,819,500	5,218,200	816,700	4,762,500
2013-14	6,608,300	7,331,100	818,500	3,220,900
2014-15 ^{c)}	6,946,300	6,939,700	678,100	\$2,549,400
Total	\$147,010,900	\$135,561,300	\$10,699,500	--

^{a)} Program data for the first four years of the program were aggregated.

^{b)} Adjusted for FY 2005-06 transfer of \$15.0 million from Survey and Remonumentation Fund to GF/GP.

^{c)} FY 2014-15 figures are estimates as book-closing for FY 2014-15 has not yet occurred.

Source: Michigan Department of Licensing and Regulatory Affairs and Michigan Administrative Information Network

Conclusion

For the past 24 years, the State of Michigan has conducted a program to provide counties with funding to locate and remonument the 225,200 corner markers placed during the original United States government surveys of the State in the early- to mid-1800s. While the original goal of the program was to complete this process within 20 years, increasing costs, an underestimate of the number of corners to be remonumented, stagnant revenue, legislative redirection of funds, and other factors have caused the timeline for completion of this project to be delayed significantly -- possibly by a total of 45 years or longer.